

**U.S. District Court
Southern District of New York (White Plains)
CIVIL DOCKET FOR CASE #: 7:19-cv-06494-NSR**

Shelton v. Lumico Life Insurance Company et al
Assigned to: Judge Nelson Stephen Roman
Cause: 47:227(b)(3) Telephone Consumer Protection Act of 1991

Date Filed: 07/12/2019
Jury Demand: Plaintiff
Nature of Suit: 890 Other Statutory Actions
Jurisdiction: Federal Question

Plaintiff

James Everett Shelton
*individually and on behalf of all others
similarly situated*

represented by **Timothy Sostrin**
Keogh Law, Ltd
55 W. Monroe St., Suite 3390
Chicago, IL 60603
(312)-726-1092
Email: tsostrin@keoghlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Anthony Paronich
Paronich Law, P.C.
350 Lincoln St.
Suite 2400
Hingham, MA 02043
508-221-1510
Fax: 508-221-1510
Email: anthony@paronichlaw.com
ATTORNEY TO BE NOTICED

Keith Keogh
Keogh Law, Ltd
55 W. Monroe St., Suite 3390
Chicago, IL 60603
(312)-726-1092
Email: keith@keoghlaw.com
ATTORNEY TO BE NOTICED

V.

Defendant

Lumico Life Insurance Company

represented by **Lewis S. Wiener**
Eversheds Sutherland (US) LLP (DC)
700 Sixth St. NW, Suite 700
Washington, DC 20001
(202)-383-0100
Fax: 202)-637-3593
Email: lewiswiener@eversheds-sutherland.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Francis Xavier Nolan , IV

Eversheds Sutherland, LLP(NYC)
 1114 Avenue of the Americas
 40th Flr.
 New York, NY 10036
 (212) 389-5000
 Fax: (212) 389-5099
 Email: franknolan@eversheds-sutherland.com
ATTORNEY TO BE NOTICED

Defendant

Assurance IQ, Inc.

represented by **Victor Genecin**
 Squire Patton Boggs (US) LLP
 1211 Avenue of the Americas
 Ste 26th Floor
 New York, NY 10036
 212-872-9889
 Fax: 212-872-9815
 Email: victor.genecin@squirepb.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Daniel L. Delnero
 Squire Patton Boggs (US) LLP
 1230 Peachtree St NE Ste 1700
 Atlanta, GA 30309
 678-272-3230
 Fax: 678-272-3211
 Email: daniel.delnero@squirepb.com
ATTORNEY TO BE NOTICED

Eric J. Troutman
 Squire Patton Boggs (Us) LLP
 555 S. Flower Street, Suite 3100
 Los Angeles, CA 90081
 213-624-2500
 Fax: 213-623-4581
 Email: eric.troutman@squirepb.com
ATTORNEY TO BE NOTICED

Larry P. Schiffer
 Larry P. Schiffer
 10301 Beech Tree Lane
 Plainview, NY 11803
 516-650-1827
 Email: larry.schiffer@squirepb.com
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
07/12/2019	<u>1</u>	COMPLAINT against Assurance IQ, Inc., Lumico Life Insurance Company. (Filing Fee \$ 400.00, Receipt Number ANYSDC-17235928)Document filed by James Everett Shelton.(Keogh, Keith) (Entered: 07/12/2019)

07/12/2019	<u>2</u>	CIVIL COVER SHEET filed. (Keogh, Keith) (Entered: 07/12/2019)
07/12/2019	<u>3</u>	MOTION for Keith James Keogh to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17236288. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by James Everett Shelton. (Attachments: # <u>1</u> Affidavit of Keith Keogh, # <u>2</u> Illinois Certificate of Admission, # <u>3</u> Florida Certificate of Good Standing, # <u>4</u> Text of Proposed Order)(Keogh, Keith) (Entered: 07/12/2019)
07/12/2019	<u>4</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Lumico Life Insurance Company, re: <u>1</u> Complaint. Document filed by James Everett Shelton. (Keogh, Keith) (Entered: 07/12/2019)
07/12/2019	<u>1</u>	>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>3</u> MOTION for Keith James Keogh to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17236288. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (jc) (Entered: 07/12/2019)
07/12/2019	<u>5</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Assurance IQ, Inc., re: <u>1</u> Complaint. Document filed by James Everett Shelton. (Keogh, Keith) (Entered: 07/12/2019)
07/15/2019	<u>1</u>	CASE OPENING INITIAL ASSIGNMENT NOTICE: The above-entitled action is assigned to Judge Nelson Stephen Roman. Please download and review the Individual Practices of the assigned District Judge, located at http://nysd.uscourts.gov/judges/District . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at http://nysd.uscourts.gov/ecf_filing.php . (pne) (Entered: 07/15/2019)
07/15/2019	<u>1</u>	Magistrate Judge Lisa M. Smith is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: http://nysd.uscourts.gov/forms.php . (pne) (Entered: 07/15/2019)
07/15/2019	<u>1</u>	Case Designated ECF. (pne) (Entered: 07/15/2019)
07/15/2019	<u>1</u>	***NOTICE TO ATTORNEY REGARDING CIVIL CASE OPENING STATISTICAL ERROR CORRECTION: Notice to attorney Keith Keogh. The following case opening statistical information was erroneously selected/entered: County code Westchester. The following correction(s) have been made to your case entry: the County code has been modified to XX Out of State. (pne) (Entered: 07/15/2019)
07/15/2019	<u>1</u>	***NOTICE TO ATTORNEY REGARDING PARTY MODIFICATION. Notice to attorney Keith Keogh. The party information for the following party/parties has been modified: James Everett Shelton. The information for the party/parties has been modified for the following reason/reasons: party text was omitted. (pne) (Entered: 07/15/2019)
07/15/2019	<u>6</u>	ELECTRONIC SUMMONS ISSUED as to Assurance IQ, Inc.. (pne) (Entered: 07/15/2019)
07/15/2019	<u>7</u>	ELECTRONIC SUMMONS ISSUED as to Lumico Life Insurance Company. (pne) (Entered: 07/15/2019)
07/17/2019	<u>8</u>	ORDER FOR ADMISSION PRO HAC VICE granting <u>3</u> Motion for Keith James Keogh to Appear Pro Hac Vice. ENDORSEMENT: Clerk of the Court requested to terminate the motion (doc. 3). SO ORDERED. (Signed by Judge Nelson Stephen Roman on 7/17/2019) (rj) (Entered: 07/18/2019)
07/19/2019	<u>9</u>	MOTION for Anthony I. Paronich to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17275476. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by James Everett Shelton. (Attachments: # <u>1</u> Exhibit 1 --- Affidavit of Anthony I. Paronich, # <u>2</u> Exhibit 2 --- Certificate of Good Standing for Anthony I. Paronich, # <u>3</u> Text of Proposed Order Proposed Order)(Paronich, Anthony) (Entered: 07/19/2019)

07/19/2019	<u>I</u>	>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>9</u> MOTION for Anthony I. Paronich to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17275476. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 07/19/2019)
07/22/2019	<u>I</u> <u>10</u>	MOTION for Timothy James Sostrin to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17286477. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by James Everett Shelton. (Attachments: # <u>1</u> Affidavit of Timothy Sostrin, # <u>2</u> Illinois Certificate of Admission, # <u>3</u> Text of Proposed Order)(Sostrin, Timothy) (Entered: 07/22/2019)
07/22/2019	<u>I</u>	>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>10</u> MOTION for Timothy James Sostrin to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-17286477. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 07/22/2019)
07/23/2019	<u>I</u> <u>11</u>	WAIVER OF SERVICE RETURNED EXECUTED. Lumico Life Insurance Company waiver sent on 7/23/2019, answer due 9/23/2019. Document filed by James Everett Shelton. (Paronich, Anthony) (Entered: 07/23/2019)
07/23/2019	<u>I</u> <u>12</u>	NOTICE OF APPEARANCE by Lewis S. Wiener on behalf of Lumico Life Insurance Company. (Wiener, Lewis) (Entered: 07/23/2019)
07/23/2019	<u>I</u> <u>13</u>	NOTICE OF APPEARANCE by Francis Xavier Nolan, IV on behalf of Lumico Life Insurance Company. (Nolan, Francis) (Entered: 07/23/2019)
07/23/2019	<u>I</u> <u>14</u>	ORDER GRANTING MOTION FOR ADMISSION PRO HAC VICE granting <u>10</u> Motion for Timothy James Sostrin to Appear Pro Hac Vice. SO ORDERED. Clerk of the Court requested to terminate the motion (doc. 10). (Signed by Judge Nelson Stephen Roman on 7/23/2019) (ne) (Entered: 07/23/2019)
07/23/2019	<u>I</u> <u>15</u>	ORDER ON MOTION FOR ADMISSION PRO HAC VICE granting <u>9</u> Motion for Anthony I. Paronich to Appear Pro Hac Vice. SO ORDERED. Clerk of the Court requested to terminate the motion (doc. 9). (Signed by Judge Nelson Stephen Roman on 7/23/2019) (ne) (Entered: 07/23/2019)
07/29/2019	<u>I</u> <u>16</u>	FILING ERROR – DEFICIENT DOCKET ENTRY (SEE <u>17</u> Summons Returned Executed) – SUMMONS RETURNED EXECUTED Summons and Complaint served. Assurance IQ, Inc. served on 7/23/2019, answer due 8/13/2019. Service was accepted by Julia Rutledge, Assistant Secretary for RSC Corporation, Registered Agent. Document filed by James Everett Shelton. (Keogh, Keith) Modified on 7/30/2019 (db). (Entered: 07/29/2019)
07/29/2019	<u>I</u> <u>17</u>	SUMMONS RETURNED EXECUTED Summons and Complaint served. Service was accepted by Julia Rutledge, Assistant Secretary for RSC Corporation, Registered Agent. Document filed by James Everett Shelton. (Keogh, Keith) (Entered: 07/29/2019)
08/12/2019	<u>I</u> <u>18</u>	ORDER: THIS MATTER IS BEFORE THE COURT on Plaintiff James Everett Shelton and Defendant Assurance IQ, Inc.'s Stipulation of Extension of Time to Respond to the Complaint (the "Stipulation"). Pursuant to Rule 6(b)(1)(A) of the Federal Rules of Civil Procedure, the Court has considered the Stipulation and the record as a whole and, for good cause shown, hereby GRANTS the Stipulation. Defendant Assurance IQ, Inc. shall have up to and including September 13, 2019 to answer or otherwise respond to Plaintiff's Complaint. Assurance IQ, Inc. answer due 9/13/2019. (Signed by Judge Nelson Stephen Roman on 8/12/2019) (mro) (Entered: 08/12/2019)
09/23/2019	<u>I</u> <u>19</u>	ENDORSED LETTER addressed to Judge Nelson Stephen Roman from Francis X Nolan dated 9/20/2019 re: Request for extension of time to answer or otherwise respond to the complaint.

		ENDORSEMENT: The application is denied. Extension of time to respond is granted as follows: Dft Lumico shall either file an answer or submit a pre-motion letter on or before September 30, 2019., Lumico Life Insurance Company answer due 9/30/2019. (Signed by Judge Nelson Stephen Roman on 9/23/2019) (rj) Modified on 11/4/2019 (rj). (Entered: 09/24/2019)
09/25/2019	<u>20</u>	NOTICE OF APPEARANCE by Larry P. Schiffer on behalf of Assurance IQ, Inc.. (Schiffer, Larry) (Entered: 09/25/2019)
09/30/2019	<u>21</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. Identifying Corporate Parent Swiss Reinsurance Ltd for Lumico Life Insurance Company. Document filed by Lumico Life Insurance Company.(Wiener, Lewis) (Entered: 09/30/2019)
09/30/2019	<u>22</u>	ANSWER to <u>1</u> Complaint. Document filed by Lumico Life Insurance Company.(Wiener, Lewis) (Entered: 09/30/2019)
10/14/2019	<u>23</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – MOTION for Eric J. Troutman to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC–17767134. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Assurance IQ, Inc.. (Attachments: # <u>1</u> Exhibit A – Certificate of Good Standing (California), # <u>2</u> Exhibit B – Certificate of Good Standing (Washington), # <u>3</u> Text of Proposed Order)(Troutman, Eric) Modified on 10/15/2019 (wb). (Entered: 10/14/2019)
10/14/2019	<u>24</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – MOTION for Daniel L. Delnero to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Assurance IQ, Inc.. (Attachments: # <u>1</u> Exhibit A – Certificate of Good Standing (Georgia), # <u>2</u> Text of Proposed Order)(Troutman, Eric) Modified on 10/15/2019 (wb). (Entered: 10/14/2019)
10/14/2019	<u>25</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – MOTION for Daniel L Delnero to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC–17767744. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Assurance IQ, Inc.. (Attachments: # <u>1</u> Exhibit A – Certificate of Good Standing (Georgia), # <u>2</u> Text of Proposed Order)(Delnero, Daniel) Modified on 10/15/2019 (wb). (Entered: 10/14/2019)
10/15/2019	<u>I</u>	>>>NOTICE REGARDING DEFICIENT MOTION TO APPEAR PRO HAC VICE. Notice to RE-FILE Document No. <u>24</u> MOTION for Daniel L. Delnero to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff., <u>23</u> MOTION for Eric J. Troutman to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC–17767134. Motion and supporting papers to be reviewed by Clerk's Office staff., <u>25</u> MOTION for Daniel L Delnero to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC–17767744. Motion and supporting papers to be reviewed by Clerk's Office staff... The filing is deficient for the following reason(s): missing Certificate of Good Standing from Supreme Court of California; Pursuant to Rule 1.3. the Attorney Affidavit missing the language of disciplinary.;. Re-file the motion as a Motion to Appear Pro Hac Vice – attach the correct signed PDF – select the correct named filer/filers – attach valid Certificates of Good Standing issued within the past 30 days – attach Proposed Order.. (wb) (Entered: 10/15/2019)
07/28/2020	<u>26</u>	MOTION for Conference <i>Request for a Fed. R. Civ. P. 16 Conference</i> . Document filed by James Everett Shelton..(Paronich, Anthony) (Entered: 07/28/2020)
07/31/2020	<u>27</u>	LETTER RESPONSE in Opposition to Motion addressed to Judge Nelson Stephen Roman from Lewis S. Wiener dated July 31, 2020 re: <u>26</u> MOTION for Conference <i>Request for a Fed. R. Civ. P. 16 Conference</i> . . Document filed by Lumico Life Insurance Company..(Wiener, Lewis) (Entered: 07/31/2020)
10/20/2020	<u>I</u>	Magistrate Judge Andrew E. Krause is so redesignated. (wb) (Entered: 10/20/2020)

03/30/2021	<u>I 28</u>	MEMO ENDORSED ORDER denying <u>26</u> Motion for Conference re: <u>26</u> MOTION for Conference <i>Request for a Fed. R. Civ. P. 16 Conference</i> . ENDORSEMENT: The Court is in possession of Defendant Assurance IQ, Inc.'s ("Assurance") pre-motion letter, dated September 12, 2019 (attached hereto), seeking leave to file the following motions: (1) motion to dismiss for lack of personal jurisdiction or, in the alternative, to transfer the case to the Eastern District of Pennsylvania and dismiss claims of non-Pennsylvania residents; (2) a motion to strike the class definitions and allegations; (3) a motion to dismiss claims related to an alleged failure to identify; and (4) a motion to stay the case pending FCC rulemaking under the doctrine of primary jurisdiction. Plaintiff's letter in opposition, dated September 17, 2019, is also attached. The Court waives the pre-motion conference requirement and grants Assurance leave to file its motions with the following briefing schedule: moving papers shall be served not filed May 17, 2021; Plaintiff's opposition papers shall be served not filed July 2, 2021; and reply papers shall be served July 19, 2021. All motion documents shall be filed on the reply date, July 19, 2021. The parties shall provide 2 hard courtesy copies of their respective motion documents to Chambers on the dates the documents are served upon their adversary. Counsel shall also provide the Court with one electronic copy of their respective motion papers as they are served. The Court also reviewed Plaintiff's motion, dated July 28, 2020 (ECF No. 26) seeking a R. 16 conference and Defendant Lumico Life Inc. Co.'s letter in opposition, dated July 31, 2020 (ECF No. 27). Plaintiff's application is denied and discovery is held in abeyance pending the Court's resolution of Assurance's motions. The Clerk of the Court is respectfully requested to terminate the motion (ECF No. 26). SO ORDERED. (Signed by Judge Nelson Stephen Roman on 3/30/2021) (rj) (Entered: 03/31/2021)
03/30/2021	<u>I</u>	Set/Reset Deadlines: Motions due by 7/19/2021. (rj) (Entered: 03/31/2021)
05/17/2021	<u>I 29</u>	NOTICE OF APPEARANCE by Victor Genecin on behalf of Assurance IQ, Inc...(Genecin, Victor) (Entered: 05/17/2021)
05/17/2021	<u>I 30</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. Identifying Corporate Parent Prudential Financial, Inc. for Assurance IQ, Inc.. Document filed by Assurance IQ, Inc...(Genecin, Victor) (Entered: 05/17/2021)
07/07/2021	<u>I 31</u>	ORDER TRANSFERRING CASE TO THE EASTERN DISTRICT OF PENNSYLVANIA: Defendant Assurance IQ, LLC has served a motion to transfer this action to the Eastern District of Pennsylvania. Subsequently, the parties have filed a stipulation agreeing to the transfer. Based on the parties stipulation, that Court finds pursuant to 28 U.S.C. § 1404 that (1) this case arises from telephone calls Plaintiff received in the Eastern District of Pennsylvania; (2) Plaintiff could have brought this case initially in the Eastern District of Pennsylvania; (3) the parties have consented to transfer to the Eastern District of Pennsylvania; and (4) transfer will promote the convenience of parties and witnesses be in the interests of justice. Given this order, all pending motions are denied as moot. SO ORDERED. (Signed by Judge Nelson Stephen Roman on 7/7/2021) (rj) Transmission to Office of the Clerk of Court for processing. (Entered: 07/07/2021)